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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,419	03/18/2004	Daniel D. Friel SR.	FRIEL-105	5873

7590 05/23/2005
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EXAMINER

SHAKERI, HADI

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/803,419

Applicant(s)

FRIEL ET AL.

Examiner

Hadi Shakeri

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-12, 14-38 and 41-62 is/are pending in the application.
- 4a) Of the above claim(s) 4, 5, 14-38, 41-43 and 57-62 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 2, 3, 6-12 and 44-56 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 042905.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

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DETAILED ACTION

Election/Restrictions

1. This application contains claims 4, 5, 13, 14, 16-43, 52 and 57-62 drawn to an invention nonelected with traverse in Paper No. 040105. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 3, 6-10, 12, 44-51 and 53-56 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 53, the language, i.e., line 14, "angle C to the relative to the plane" renders the claims indefinite.

Regarding claim 54, the language renders the claims indefinite, i.e., line 16, "said objects" lacks sufficient antecedent basis, since only one object is recited earlier in the claim (line13); lines 17 and 18, "a knife guide" is unclear, since a knife guide is already recited; and line 19, "a hardened surface" is indefinite, since a hardened surface is already recited.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 2, 3, 6-7, 12, 44-49, 51 and 53-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friel (Des. 368,217) in view of Edling (4,285,253).

Friel meets all of the limitations of claim 53 and 54, i.e., knife-edge enhancing or conditioning apparatus and method having a precision angle knife guide, except for disclosing a hardened object for the sharpening tool.

Edling teaches achieving a fine smooth finish by a non-grinding means of utilizing a harden object. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the invention of Friel by substituting the sharpener with a harden object as taught by Edling to obtain a fine smooth finish.

Regarding claims 2, 7, 12, 44- 49, 55 and 56, Friel as modified by Edling meets the limitations, e.g., stationary object; Rockwell C-65; rods or rollers; handle; and hardened object made of glass or crystal is considered to meet the limitation of claim 56, however, choosing a surface roughness of less than 10 microns would have been obvious to one having ordinary skill in the art at the time the invention was made, dependent on work-piece/operational parameters, which involves only routine skill in the art, and since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Regarding claims 3, 6 and 51, Friel as modified by Edling meets the limitations, note that setting the length of the guide to one inch, the angle B to less than 10 degrees are considered obvious modification within the knowledge of one of ordinary skill in the art depending on workpiece/operational parameters. Regarding claim 51, using rollers or rods for the guide plane is old, as evident by, e.g., Friel (5,449,315) and is considered obvious to one of ordinary skill in the art.

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5. Claims 8, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over PA (prior art, Friel modified by Edling) as applied to claim 54 above, and further in view of Fletcher (4,450,653).

Friel modified by Edling meets all of the limitations of claims 8 and 9, i.e., except rotatable harden object with braking mechanism.

Fletcher teaches setting the harden object into a support by threaded means. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to further modify the modified invention of PA by using a threaded connection between the object and the support as taught by Fletcher for an adjustable object.

Allowable Subject Matter

6. Claims 10 and 50 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: a restraining mechanism (O-ring 20) applying a resistive force as recited in claim 10, i.e., the object being displaceable (as defined by Specification, not met by rotation of the object) and knife guide being pivotally mounted in a support member with an adjusting structure (Fig. 16A) as recited in claim 50, place these claims in condition for allowance.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action (claim 11, boarding the scope, e.g., eliminating hardened surface without tendency to abrade). Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Response to Arguments

9. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hadi Shakeri whose telephone number is (571) 272-4495. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hadi Shakeri
Primary Examiner
Art Unit 3723
May 18, 2005